

Supreme Court, U. S.

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MICHAEL RODAK, JR., CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1977

No. 77-198

ROBERT HURST and LESLIE MINUS, *Petitioners*

v.

TRIAD SHIPPING COMPANY, *Respondent*

**RESPONSE OF RESPONDENT
TO PETITION FOR WRIT
OF CERTIORARI**

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ARGUMENT

The Petition Should Be Granted.

There is presently pending in this Honorable Court a Petition for a Writ of Certiorari to the United States Court of Appeals for the Third Circuit in *Robert and Helen Henry v. United Overseas Marine Corp.*, No. 76-1520 (October Term, 1976). In *Henry*, the Third Circuit entered a Judgment Order affirming the District Court's grant of a Directed Verdict for Shipowner. 547 F.2d 1160 (3d Cir. 1977). *Henry* required interpretation of the 1972 Amendments to the Longshoremen and Harbor Workers' Compensation Act in the context of accidental injuries suffered by a longshoreman because of a negligent method of discharge utilized by his stevedore employer. In *Henry*, Respondent Shipowner filed a Brief with this Honorable Court agreeing with Petitioner that a Writ of Certiorari to

the United States Court of Appeals for the Third Circuit should be granted.

Factually, the instant case is similar to *Henry* in that the accidental injuries to longshoremen Petitioners resulted from defective equipment furnished by their stevedore employer. Additionally, the United States Court of Appeals for the Third Circuit affirmed a Directed Verdict in favor of Respondent Shipowner. In so doing, however, the Third Circuit filed a lengthy and well-reasoned Opinion in support of its affirmance which is now reported at 554 F.2d 1237 (3d Cir. 1977).

With the exception of the constitutional issue, all issues raised by Petitioners herein are identical to those raised by Petitioner in *Henry*. Accordingly, Respondent Shipowner herein incorporates by reference the Response of Respondent to Petition for Writ of Certiorari in *Henry* and urges this Honorable Court to grant the Writ in both cases. In the event this Honorable Court grants the Writs here and in *Henry*, Respondent will file a motion requesting that the two cases be consolidated for purposes of briefing and argument.

CONCLUSION

For the reasons stated herein, it is respectfully requested that the Petition for Writ of Certiorari to the United States Court of Appeals for the Third Circuit be granted.

Respectfully submitted,

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